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**DEED OF ASSIGNMENT OF PATENT**

DATED 28 October 2003

**PARTIES**

1. **MACQUARIE RESEARCH LIMITED** ACN 003 849 198 of Macquarie University, Sydney NSW 2108; and
2. **MICROSEARCH FOUNDATION OF AUSTRALIA** ABN 96 001 568 781 of 11 Sirius Road, Lane Cove NSW 2066,  
(Assignors).
3. **ASTRAVIA LTD** ACN 094 446 803 of Level 10, 17-19 Bridge Street, Sydney NSW 2000 (Assignee).

**BACKGROUND**

- A. The Assignors are the beneficial owners of the Patent Rights, the Application and the Ancillary Rights.
- B. The Assignors have agreed to assign all their rights, title and interest in the Patent Rights, Application and the Ancillary Rights to the Assignee under the terms of this deed.

**OPERATIVE PROVISIONS**1. **DEFINED MEANINGS**

Words used in this document and the rules of interpretation that apply are set out and explained in the definitions and interpretation clause at the back of this document.

2. **ASSIGNMENT**

- 2.1 With effect from the date of this deed the Assignors assign all their rights in the Patent Rights, the Application and the Ancillary Rights to the Assignee.
- 2.2 The Assignors assign the Patent Rights, Application and Ancillary Rights to the Assignee free of any legal or equitable interest of or claim by any other party.
- 2.3 The Assignors must at the request and cost of the Assignee execute all documents to enable the Assignee to apply for and obtain registration as sole proprietor of the Patent Rights and the Application in any jurisdiction.

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### 3. **CONTINUING OBLIGATIONS**

#### 3.1 Registration

The Assignors will not at any time do any act which would:

- (a) invalidate or put in dispute the Assignees title to the Patent Rights, Application and Ancillary Rights.
- (b) support an application to remove the registration of the Patent Rights or Application as a registered patent or which would prevent the grant of letters patent in respect of the Application or which would in any way limit or reduce the scope of the Patent Rights, Application or Ancillary Rights. The Assignors must not assist any person, directly or indirectly to do any of those acts.

#### 3.2 Further Applications

The Assignors covenant that they will not seek to apply for any patent in any jurisdiction based on the same, or substantially the same, inventions as those comprised in the Patent Rights and Application.

#### 3.3 Protection

Subject to clause 4.2 of the License Agreement and except with the consent of the Assignee, each Assignor will not directly or indirectly at any time from the date of this agreement perform any business or research activity, in any business, academic or research capacity by using any intellectual property which is comprised in, or which is substantially identical to, the Patent Rights, Application or Ancillary Rights.

#### 3.4 Confidentiality protection

- (a) Each Assignor must at any time from the date of this agreement keep all confidential information connected with the Patent Rights, Application and Ancillary Rights confidential to and for the benefit of the Assignee.
- (b) The Assignors must not directly or indirectly at any time from the date of this agreement, without the prior written consent of the Assignee use or disclose to any person any confidential information connected with the Patent Rights, Application or Ancillary Rights.
- (c) This provision does not apply to the disclosure or use of any confidential information:
  - (i) which is or has become generally available to the public through printed publications in general circulation in Australia through no default on the part of any Assignor or its agent; or

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(ii) where compelled by any judicial order or legal process in the course of any legal action.

#### 4. ADMINISTRATIVE PROVISIONS

##### 4.1 Notices

(a) Any notice, approval, request, demand or other communication (notice) to be given for the purposes of this deed must be in writing and must be:

(i) served personally; or

(ii) sent by ordinary or registered post - person to person mail (airmail if overseas) to the address of the party specified in Item 3 (or such other address as that party notifies in writing); or

(iii) sent by facsimile transmission to the facsimile number of that party specified in Item 3 (or such other facsimile number as that party notifies in writing).

(b) A notice given:

(i) personally will be served on delivery;

(ii) by post will be served seven days after posting;

(iii) by facsimile transmission will be served on receipt of a transmission report by the machine from which the facsimile was sent indicating that the facsimile had been sent in its entirety to the facsimile number specified in Item 3 or such other number as may have been notified by the receiving party. If the facsimile has not been completely transmitted by 5.00 pm (determined by reference to the time of day at the recipient's address) it will be deemed to have been served on the next day.

##### 4.2 Stamp Duty and Costs

(a) The Assignee must pay all stamp duty on or arising in connection with this deed and any other related documentation.

(b) Each party must bear its own legal and other costs and expenses arising directly or indirectly with respect to the preparation, execution, completion and performance of this deed or any related documentation.

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**4.3 Governing Law**

This deed will be governed by the laws of New South Wales. The parties submit to the non-exclusive jurisdiction of the courts of that State.

**4.4 Waiver**

The failure or omission of a party at any time to:

- (a) enforce or require the strict observance of or compliance with any provision of this deed; or
- (b) exercise any election or discretion under this deed,

will not operate as a waiver of them or of the rights of a party, whether express or implied, arising under this deed.

**4.5 Further Assurance**

Each party must sign, execute and complete all additional documents which may be necessary to effect, perfect, or complete the provisions of this deed and the transactions to which it relates.

**4.6 Severability**

If any part of this deed is or becomes illegal, invalid or unenforceable in any relevant jurisdiction, the legality, validity or enforceability of the remainder of the Deed will not be affected and this deed will be read as if the part had been deleted in that jurisdiction only.

**4.7 Entire Understanding**

Subject to the License Agreement and the Option Agreement:

- (a) this deed contains the entire understanding and agreement between the parties as to the subject matter of this deed;
- (b) all previous negotiations, understandings, representations, warranties, memoranda or commitments in relation to, or in any way affecting, the subject matter of this deed are merged in and superseded by this deed and will be of no force or effect and no party will be liable to any other party in respect of those matters;
- (c) no oral explanation or information provided by any party to another will affect the meaning or interpretation of this deed or constitute any collateral agreement, warranty or understanding between any of the parties.

**4.8 Merger**

The obligations contained in this deed will continue until satisfied in full.

**4.9 Execution by Counterparts**

This deed may consist of one or more counterpart copies and all counterparts will, when taken together, constitute the one document.

**5. DEFINITIONS AND INTERPRETATION****5.1 Definitions**

In this document unless the context otherwise requires:

**Application** has the meaning given it in Item 2 of the Schedule;

**Ancillary Rights** means all rights arising from the Patent Rights and Application, all rights existing or obtainable in respect of the inventions the subject of the Patents Rights and Application and all know how and technical information relating to the Patent Rights, Application and their constituent inventions;

**License Agreement** means an agreement between the Assignors and Assignee under which the Assignors licensed the Patent Rights and Application to the Assignee.

**Patent Rights** has the meaning given it in Item 1 of the Schedule;

**5.2 Interpretation**

In this document unless the context otherwise requires:

- (a) clause and subclause headings are for reference purposes only;
- (b) the singular includes the plural and vice versa;
- (c) words denoting any gender include all genders;
- (d) reference to a person includes any other entity recognised by law and vice versa;
- (e) where a word or phrase is defined its other grammatical forms have a corresponding meaning;
- (f) any reference to a party to this document includes its successors and permitted assigns;
- (g) any reference to any agreement or document includes that agreement or document as amended at any time;

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- (h) the use of the word **includes** or **including** is not to be taken as limiting the meaning of the words preceding it;
- (i) the expression **at any time** **includes** reference to past, present and future time and the performance of any action from time to time;
- (j) an agreement, representation or warranty on the part of two or more persons binds them jointly and severally;
- (k) an agreement, representation or warranty on the part of two or more persons is for the benefit of them jointly and severally;
- (l) reference to an item is a reference to an item in the schedule to this document;
- (m) reference to an exhibit, annexure, attachment or schedule is a reference to the corresponding exhibit, annexure, attachment or schedule in this document;
- (n) reference to a provision described, prefaced or qualified by the name, heading or caption of a clause, subclause, paragraph, schedule, item, annexure, exhibit or attachment in this document means a cross reference to that clause, subclause, paragraph, schedule, item, annexure, exhibit or attachment;
- (o) when a thing is required to be done or money required to be paid under this document on a day which is not a Business Day, the thing must be done and the money paid on the immediately preceding Business Day; and
- (p) reference to a statute includes all regulations and amendments to that statute and any statute passed in substitution for that statute or incorporating any of its provisions to the extent that they are incorporated.

**SCHEDULE****Item 1**  
**Patent Rights**

Means all rights, interest, title and benefits in the patent granted in New Zealand and Australia and in the applications in respect of that patent, lodged in United States of America, Canada, Japan, Hong Kong and Europe, details of all of which are set out in the table below.

Country	Application Serial Number	Status
Australia	711199	Granted
US	08/875 228	Awaiting Allowance
Canada	2210894	Exam request date 19/1/2003
Japan	521922/96	Exam request date 19/1/2003
NZ	298721	Granted
Hong Kong	98102946.4	Stage 1 application published; stage 2 due 6 months after grant of EP application
Europe	96900477.9	Awaiting allowance

**Item 2**  
**Application**

Means all rights, interest, title and benefits in the application for grant of a patent, details of which are set out in the table below.

Country	Application/Serial No.	Status
N/A	PCT/AU99/00495	IPER issued 20/6/2000

